

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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EVERYTOWN FOR GUN SAFETY  
ACTION FUND, INC.,

Plaintiff,

v.

DEFCAD, INC.; ODYSEE USER  
XYEEZYSZN; DEFCAD USER  
XYEEZYSZN; ODYSEE USER  
THEGATALOG-PRINTABLEMAGAZINES;  
THE GATALOG; DEFCAD USER  
FREEMAN1337; TWITTER USER  
XYEEZYSZN; PHILLIP ROYSTER.

Defendants.

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Civil Action No. 21-cv-08704-  
PGG

**[PROPOSED] ORDER**

Plaintiff Everytown for Gun Safety Action Fund, Inc. (“Everytown”), and Defendants Phillip Royster, Odysee User xYeezySZN, Defcad User xYeezySZN, and Twitter User xYeezySZN (“Royster Defendants”) hereby agree to entry of a joint stipulated Order as follows:

WHEREAS Everytown and the Royster Defendants are interested in resolving the issues in the First Amended Complaint [ECF 89] (“FAC”) and have negotiated in good faith for that purpose;

WHEREAS Everytown identified certain file listings (“Files”) in the FAC that pertain to the Royster Defendants on online webpages, such as [www.odysee.com](http://www.odysee.com) and [www.defcad.com](http://www.defcad.com), and social media accounts owned and/or operated by the Royster Defendants as follows:

1. Everytown – Firebolt 5.56 Bold Catch (r) Magwell Panel

(<https://defcad.com/library/b53093c0-5214-475a-bb23-fc7684ef1ff3/>);

2. Moms Demand Action – Firebolt 5.56 Bolt Catch Magwell  
(<https://defcad.com/library/2d0f5a72-3147-4076-9ed9-9aa843710f67/>);
3. Everytown -Firebolt Magwell (R) 5.56 Bolt Catch;  
(<https://odysee.com/@xYeezySZN:f/EverytownFireboltMagwell:f>);
4. Moms Demand – Firebolt Magwell (R) 5.56 Bolt Catch;  
(<https://odysee.com/@xYeezySZN:f/MomsDemandFirebolt:7>); and
5. [www.twitter.com/xYeezySZN/status/1445050876318605322](https://www.twitter.com/xYeezySZN/status/1445050876318605322) (a screenshot of the link contained within FAC Exhibit 6 is attached to this Order as **Exhibit A**).

IT IS HEREBY STIPULATED AND AGREED:

1. Royster Defendants shall permanently takedown the Files on online webpages and social media accounts, such as accounts with [www.odysee.com](http://www.odysee.com) and [www.defcad.com](http://www.defcad.com), controlled, owned and/or operated by the Royster Defendants (“Active Accounts”) and make the Files inaccessible to the public within 2 business days of entry of this stipulated Order; the Parties acknowledge that the twitter.com account referenced above is not currently active and cannot be taken down.
2. Royster Defendants shall not advertise, sponsor, offer to sell, sell and/or distribute files for the manufacture of 3D printed guns, gun parts and/or gun accessories bearing the registered trademarks specifically listed in paragraphs 78 and 79 of Everytown’s FAC, attached hereto within **Schedule 1** (the “Schedule 1 Marks”), provided that this restriction will not apply to the use or depiction of the flag of the United States and/or a check mark<sup>1</sup>, or facsimile thereof notwithstanding any of the Schedule 1 Marks.
3. Royster Defendants shall not advertise, sponsor, offer to sell, sell and/or distribute files

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<sup>1</sup> An example of a “check mark” symbol is depicted as follows: ✓

for the manufacture of 3D printed guns, gun parts and/or gun accessories bearing any of the trademarks listed within **Schedule 2** attached hereto (the “Schedule 2 Marks”), or any marks confusingly similar to the Schedule 1 Marks or Schedule 2 Marks (collectively, the Schedule 1 Marks and Schedule 2 Marks, the “Everytown Marks”), which mark is likely to cause consumer confusion as to the source of the goods or services being advertised, sponsored, offered for sale, sold, or distributed by the Royster Defendants or is likely to dilute<sup>2</sup> the distinctiveness of the Everytown Marks provided, however, that the use or depiction of the flag of the United States and/or a check mark, or facsimile thereof shall not form the basis for a finding of confusion.

4. Represent, by any means whatsoever, that the Royster Defendants, or any goods or services offered by the Royster Defendants are sponsored by, affiliated with, or approved in any way by Everytown.
5. If Everytown identifies one or more Files on Active Accounts that Everytown alleges is an infringement of one or more of the Everytown Marks, Everytown shall notify the Royster Defendants in writing, by certified and regular mail at their last known address, or the specific File(s), detailing the grounds for the assertion. If within five business days of receiving notice, the Royster Defendants remove the File(s) from public access on the Active Accounts, the Royster Defendants shall not be deemed to be or have been in violation of this Order.
6. Royster Defendants shall submit to only limited jurisdiction in the U.S. District Court for the Southern District of New York solely for the purpose of enforcing this Order.

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<sup>2</sup> For purposes of this Order, “dilute” refers to conduct prohibited under New York General Business Law Section 360-L.

IT IS HEREBY STIPULATED:

Dated: March 2, 2023

EVERYTOWN FOR GUN SAFETY ACTION  
FUND, INC.

By: /s/Marcella Ballard

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Attorneys for Plaintiff Everytown for Gun Safety  
Action Fund, Inc.

Dated: March 2, 2023

PHILLIP ROYSTER, DEFCAD USER  
XYEEZYSZN; ODYSEE USER XYEEZYSZN;  
and TWITTER USER XYEEZYSZN

By: /s/Daniel Louis Schmutter

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Attorneys for Defendants Phillip Royster, Odysee User xYeezySZN, Defcad User xYeezySZN, and Twitter User xYeezySZN

**IT IS SO ORDERED.**

Dated:


HONORABLE PAUL G. GARDEPHE  
UNITED STATES DISTRICT COURT JUDGE

## EXHIBIT A to Order

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twitter.com/xYeezySZN/status/1255557441215321

← Tweet

Yeezy  @xYeezySZN

Replying to @Everytown

Hey @Everytown, how do you like this AR-15 "ghost gun" with a 30 round mag clipazine? I designed it special for you.



11:39 AM · Oct 4, 2021 · Twitter for iPhone

12 Likes

xyxyzzz @xyxyzzz1

Tweet your reply

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What's happening

Technology · 1 hour ago  
Facebook and its other platforms including Instagram and WhatsApp experience outage on Monday  
Trending with Instagram and Facebook, #facebookdown

Technology · Trending  
#TwitterDown  
Trending with Now Twitter, Fleets

Technology · Trending  
#InternetShutDown  
121K Tweets

The Wall Street Journal · This morning  
Facebook whistleblower says she wants to fix the company, not harm it  
Trending with 50 Minutes, #facebookwhistleblower






ETimes Lifestyle · 3 hours ago  
Signs of dangerously high cholesterol levels present in your legs

Show more

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79°F Cloudy 6:02 PM 10/4/2021

**SCHEDULE 1 to Order**

	<b>USPTO Registration No.</b>	<b>Trademark</b>
1	5142124	EVERYTOWN
2	5092082	EVERYTOWN
3	5223511	EVERYTOWN FOR GUN SAFETY ACTION FUND
4	5142128	EVERYTOWN FOR GUN SAFETY SUPPORT FUND
5	4569205	MOMS DEMAND ACTION
6	5092084	MOMS DEMAND ACTION
7	5142125	 <p>The logo features a stylized American flag with three blue horizontal stripes on the left and three red horizontal stripes on the right. Below the flag, the word "EVERYTOWN" is written in bold blue capital letters, and "FOR GUN SAFETY" is written in smaller blue capital letters below it.</p>
8	5142126	 <p>A stylized American flag with three blue horizontal stripes on the left and three red horizontal stripes on the right.</p>
9	5092083	 <p>A stylized American flag with three blue horizontal stripes on the left and three red horizontal stripes on the right.</p>
10	6213804	 <p>A stylized American flag with three blue horizontal stripes on the left and three red horizontal stripes on the right.</p>
11	5151549	 <p>The logo features the words "MOMS DEMAND ACTION" in bold blue capital letters. To the right of "MOMS" is a stylized American flag with three blue horizontal stripes on the left and three red horizontal stripes on the right. Below the main text, "FOR GUN SENSE IN AMERICA" is written in smaller blue capital letters.</p>

**SCHEDULE 2 to Order**

	<b>U.S. Registration No. and/or Serial No.</b>
1	5912342
2	5912346
3	90874675
4	90874708
5	6275180
6	6436062
7	6364605
8	6436063
9	5330287
10	5498025
11	5481255
12	5078530
13	5807091
14	5134188
15	5092024
16	6380618
17	6380619
18	5801150
19	6464097
20	5481254
21	5092064
22	6280093
23	97636630
24	97636622
25	5093025
26	6148355